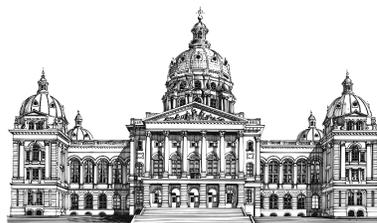

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State Capitol
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Update On Iowa Indigent Defense Program

ISSUE

Update on the Indigent Defense Program and expansion of the State Public Defender's Office one year after expansion.

AFFECTED AGENCIES

Department of Inspections and Appeals (DIA):

- Indigent Defense Program
- State Public Defender

CODE AUTHORITY

Chapters 815 and 13B, Code of Iowa

BACKGROUND

In 1989, county public defenders and State appellate defenders were combined under the State Public Defender within the Department of Inspections and Appeals. The same year, the Indigent Defense Program was moved from the Judicial Branch to the Department of Inspections and Appeals.

Indigent Defense is a State program designed to provide legal representation to low-income criminal defendants. Legal representation is provided by either a: 1) State public defender, 2) practicing attorney appointed by the Court.

The State Public Defender, appointed by the Governor and confirmed by the Senate, coordinates and supervises all court cases assigned to public defenders. All public defenders are State-employed attorneys working under the Department of Inspections and Appeals. There are currently 13 public defender offices located in the following counties: Cerro Gordo, Woodbury, Webster, Black Hawk, Dubuque, Story, Marshall, Linn, Polk, Johnson, Pottawattamie, Des Moines, and Lee. A total of 145 FTE positions are employed by the State Public Defender's Office.

Court-appointed attorneys are also compensated with State funds. Each court-appointed attorney submits a summary billing to the presiding judge stating in-court hours, out-of-court hours, hourly fee requested, and other expenses. The judge then determines the total

amount of compensation. The District Court Judge authorizes all payment claims; the District Court Administrator reviews the information and prepares the proper documentation to forward to DIA, then payment is made for the amount authorized.

The State Public Defender's Office was expanded in late FY 1991 to handle more indigent defense cases as an attempt to cap the increasing costs of representation for indigent persons. A task force review of the average cost per case indicated that cases handled by private court-appointed attorneys cost approximately twice as much as those handled by the State Public Defender. A supplemental appropriation of \$540,000 was provided to the State Public Defender in FY 1991 and additional funding of \$1.7 million in FY 1992 to add 44 attorneys and 4 new office locations.

CURRENT SITUATION

Actual expenditures for indigent defense have increased since the expansion effort late in FY 1991. Total indigent defense expenditures (State Public Defender and Indigent Defense Program) increased \$1.0 million (5.8%) from FY 1991 to FY 1992. This is attributed to a \$2.0 million (44.6%) increase in actual expenditures for the State Public Defender coupled with a \$1.0 million (7.9%) decrease in payments from the Indigent Defense Program for private court-appointed attorney claims.

Adult indigent defense claims declined in all but 3 of the counties affected by the expansion project; the overall decrease was \$1.5 million (25.7%) from FY 1991 to FY 1992. For the counties covered by offices not included in the expansion, claims increased by \$22,000 (4.8%) during the period. In those counties without Public Defender coverage, adult indigent defense claims increased \$310,000 (10.8%).

The State Public Defender handled 34,746 (27,914 adult; 6,832 juvenile) cases in FY 1992 for an average cost per case of \$188. Felony cases (Class A, B, C, and D) accounted for 18.7% of the caseload. Private attorneys were appointed to 16,471 adult indigence cases in FY 1992 at an average cost of \$485 per case.

The Indigent Defense Advisory Committee, with a membership of nine including the State Public Defender, recently initiated meetings targeted toward cost reductions in the Indigent Defense Program; no recommendations have been made to date. The Commission is to file a written report with the Governor and General Assembly each January 1.

PILOT PROJECT

Six counties are slated to participate in a pilot project in which attorneys under contract with the State Public Defender will be given priority when outside assignments are made by the Court. Contracts will be awarded to bidders providing contract terms most favorable to the State, balanced with other factors relating to the provision of competent and effective service.

The State Public Defender currently has 2 county contracts (Union and Linn) that were negotiated by county attorneys prior to the existence of the State Public Defender. In FY 1992, the average cost per case for the Union county law firm under contract was \$234; the Linn county group averaged \$140 per case. Both adult and juvenile cases were included in the calculations. The pilot project is intended to realize similar cost savings per case.

SERVICE AND ACCESSIBILITY

Four new public defender offices were opened under the expansion project: Marshalltown, staffed by 4 attorneys; Iowa City, staffed by 4 attorneys; Fort Dodge, staffed by 3 attorneys; and Dubuque, staffed by 6 attorneys. Attorneys were added in 9 existing offices.

- Cedar Rapids added 3 attorneys
- Des Moines adult office added 4 attorneys
- Des Moines juvenile added 12 attorneys
- Waterloo split into two distinct offices for juvenile and adult cases. The juvenile office added 1 attorney, the adult office added 1 attorney
- Appellate Defender added 2 attorneys
- Mason City added 2 attorneys
- Sioux City juvenile added 1 attorney
- Sioux City adult added 2 attorneys

Adult cases handled by public defenders increased 13,240 (110.8%) in FY 1992 compared to an increase of 2,015 (16.0%) in FY 1991. While the number of cases referred to outside counsel has been effectively reduced by this expansion, the total number of indigent defense cases handled has increased as illustrated below.

	Number of Adult Cases Handled			
	FY 1989	FY 1990	FY 1991	FY 1992
Court-Appointed Private Attorneys	14,955	17,444	18,937	16,471
Public Defenders	<u>(unavailable)</u>	<u>12,659</u>	<u>14,674</u>	<u>27,914</u>
<i>Total Adult Cases Handled</i>	(unavailable)	30,103	33,611	44,385

ALTERNATIVES

- ***Fiscal analysis study.*** A group specializing in justice and law-related research extended an offer in April 1992 to perform a fiscal analysis for the Iowa program. The group made a presentation to the Governor's 1990 Blue Ribbon Task Force on the Iowa Indigent Defense Program. Because of an existing contract with the American Bar Association (ABA), there would be no cost to the State for the study.
- ***Program evaluation.*** The Legislative Council could authorize an evaluation for this Program.
- ***Additional contracting with private attorneys.*** Considering the cost effectiveness of the 2 contracts currently in place, it may be more effective to exclusively use contracted outside counsel for cases not handled by the State Public Defender. The pilot project will provide additional data related to the fiscal impact of this option.

- **Further expansion of the State Public Defender's Office.** Representation by the State Public Defender System has proven to be the most cost effective method of providing indigent defense and may merit further expansion.

BUDGET IMPACT

The Indigent Defense Program estimated FY 1993 appropriation is \$8.4 million; the FY 1994 budget request is \$12.4 million. The State Public Defender will receive an estimated FY 1993 appropriation of \$7.0 million; the FY 1994 budget request is \$8.2 million. The Indigent Defense Program has historically been underfunded; therefore, the comparison between estimated FY 1993 and the FY 1994 request may be misleading as a supplemental appropriation will likely be necessary in FY 1993. A comparison of the rate of change in the 2 programs between the years of FY 1989 and FY 1992 is illustrated below.

	FY 1989	FY 1990	FY 1991	FY 1992
Expenditures	\$ 11,907,799	\$ 15,343,182	\$ 17,328,800	\$ 18,331,271
Rate of Change		28.9%	12.9%	5.8%

Total expenditures continue to increase, though at a declining rate. Given the cost saving measures implemented over the past two years, this trend is expected to continue.

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